

OFFICIAL INFORMATIONCONFIDENTIAL**EVIDENCE CODE SECTION 1040
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: April 3, 2018
TO: Honorable Board of Police Commissioners
FROM: Inspector General
SUBJECT: OFFICER-INVOLVED SHOOTING 042-17 FOR 04/10/18 CLOSED-SESSION
AGENDA

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Harbor	6/6/17	8:55 p.m.		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Urrutia, A./PO III	15 years, 9 months
Ramirez, D./PO II	8 years

Total Involved Officer(s)

1 X PO III
1 X PO II

<u>Suspect</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
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Eric Thomas Rivera, Male Hispanic, 20 years of age.

COP Recommendations

Tactics – Tactical Debrief, Officers Ramirez and Urrutia.

Drawing/Exhibiting – In Policy, No Further Action, Officers Ramirez and Urrutia.

Lethal Use of Force – In Policy, No Further Action, Officers Ramirez and Urrutia.

IG Recommendations

Tactics – Same as COP.

Drawing/Exhibiting – Same as COP.

Lethal Use of Force – Same as COP.

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INVESTIGATION

Annotated Force Investigation Division (FID) Incident Summary¹

On Tuesday, June 6, 2017, at approximately 2020 hours, a woman identified as Witness Heidi Arellano, was at the Jack in the Box restaurant located at 1010 West Pacific Coast Highway (southwest corner of Pacific Coast Highway and Wilmington Boulevard) when she observed a male Hispanic, later identified as Suspect Eric Thomas Rivera enter the restaurant.² According to Arellano, Rivera was holding a green plastic toy/water gun, was talking to himself and appeared to be angry. Rivera walked directly to the soda fountain machine, took ice from the dispenser and began throwing it around the restaurant. Rivera filled the water gun with both water and soda and proceeded to point and squirt the water gun throughout the restaurant. According to Arellano, she asked Rivera to leave the restaurant at which time he yelled, "You cannot kick me out, fuck you."³ A short time later, Rivera exited the restaurant and walked south on Wilmington Boulevard. Witness Arellano had no additional contact with Rivera.⁴

OIG Note No. 1: Witness Arellano was a shift leader, on-duty, at the Jack in the Box restaurant. Her statement was given to FID one week after the OIS occurred. At the time of the OIS, the officers involved did not have any of the information she provided to FID, including that the gun the suspect was seen holding was a green plastic toy/water gun.

At approximately 2048 hours, a man identified as Witness Alexis Mejia, stated that he observed Rivera walking south on the west sidewalk of Wilmington Boulevard from Pacific Coast Highway at a brisk pace. Mejia stated that Rivera appeared to be very angry and was talking to himself while holding a handgun in his right hand.⁵ Per Mejia, Rivera's finger was on the trigger and he was making no attempt to conceal the handgun. According to Mejia, it appeared that Rivera was intent on killing someone. Mejia called 9-1-1 to report his observations.

¹ The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

² Eric Thomas Rivera, male Hispanic, 5 feet 6 inches tall, 135 pounds, with a date of birth of October 25, 1996. Rivera was wearing a black baseball hat, black t-shirt, blue jeans, white socks and black tennis shoes. Rivera's arrival time was estimated by Witness Arellano.

³ Witness Arellano's transcribed statement, Page 5, Lines 21-22.

⁴ Witness Arellano did not call 911 to report Rivera's actions.

⁵ Witness Mejia was unable to provide a description of the handgun.

OIG Note No. 2: During Witness Mejia's conversation with the 9-1-1 operator, he was asked if he could describe the gun. He told her that it was dark when he saw the suspect and he could not describe the weapon, other than it was a pistol that he was holding in his hand.⁶ During his interview with FID, Witness Mejia reiterated that it was dark and he couldn't describe the color or size of the handgun, except to say it was "not big", and that the suspect was carrying it in his right hand. Witness Mejia did not know the handgun was a toy/water pistol.⁷

At 2050:20 hours, Communications Division (CD) broadcast, "Harbor Units, 415, man with a gun Wilmington Boulevard, Pacific Coast Highway, Wilmington Boulevard, Pacific Coast Highway. Suspect is walking on the sidewalk, male Hispanic, 30 years, black clothing, on foot Wilmington toward Anaheim carrying an unknown type handgun in his hand. Stand by for additional. It's Code-Three Incident 5212, RD 514."⁸

At 2050:42 hours, Harbor Patrol Division uniformed Police Officer II Andres Martinez, Serial No. 41620, driver, and Police Officer I Marc Sternin, Serial No. 42475, passenger, Unit 5A25, advised CD that they would handle the call and responded to the location Code-Three.⁹ Both officers activated their BWV.

Harbor Patrol Division uniformed Police Officer II Daniel Ramirez, Serial No. 40185, driver, and Police Officer III Arturo Urrutia, Serial No. 36065, passenger, Unit 5A24, heard the radio call and happened to be in the area.¹⁰ Officer Urrutia advised CD that

⁶ 9-1-1 recording of Witness Mejia reporting the incident.

⁷ Witness Mejia's transcribed statement, Pages 10 and 12.

⁸ Witness Mejia remained on the line with CD until officers arrived at scene and periodically updated CD on Rivera's location.

⁹ Police Officer II Andres Martinez, 3 years, 2 months with the Department, 26 years of age, 5 feet 10 inches tall, 190 pounds. Police Officer I Marc Sternin, 1 year, 4 months with the Department, 46 years of age, 6 feet, 1 inch tall, 195 pounds. The officers were in Shop No. 88629, a marked black and white police vehicle equipped with Digital In-Car Video System (DICVS) and ballistic door panels. Officers Martinez and Sternin were each carrying Department-approved pistols, their TASER, canisters of Oleoresin Capsicum (OC) spray, two pairs of handcuffs each, their ASP, and Hobble Restraint Devices (HRD) on their person. Both Officers had their PR-24 as well as a beanbag shotgun stored within their police vehicle. Officers Martinez and Sternin had worked together multiple times prior to this incident. As captured by their Digital In-Car Video System (DICVS) and Body Worn Video (BWV), the officers discussed the comments of the radio call, designated that Officer Martinez would be lethal and Officer Sternin would be less lethal.

¹⁰ Police Officer II Daniel Ramirez, 8 years with the Department, 29 years of age, 6 feet 2 inches tall, 210 pounds. Police Officer III Arturo Urrutia, 15 years, 9 months with the Department, 40 years of age, 5 feet, 8 inches tall, 160 pounds. The officers were in Shop No. 89483, a marked black and white police vehicle equipped with DICVS and ballistic door panels. Officers Ramirez and Urrutia were each carrying Department-approved pistols, their TASER, canisters of OC spray and an ASP on their person. Officer Ramirez also carried two pairs of handcuffs and a HRD on his person while Officer Urrutia carried one pair of handcuffs and stored his HRD in the trunk of their police vehicle. Both Officers had their PR-24 as well as a beanbag shotgun stored within their police vehicle. This was the officers first day working together. During their shift, the officers discussed tactics including foot pursuits and apprehension mode

they would back Unit 5A25, and responded to the call Code-Two.¹¹ Both officers activated their BWV.

At 2052:30 hours, Officer Urrutia broadcast that they were Code-Six in the area. Immediately following Officer Urrutia's broadcast, Officer Sternin broadcast that they were also Code-Six in the area.

At 2052:38 hours, Harbor Patrol Division uniformed Sergeant I James Talmage, Serial No. 34671, assigned Unit 5L60, advised CD that he was en route to the call and responded Code-Two.

Note: Unbeknownst to the officers, Rivera had a history of mental illness and aggression toward law enforcement personnel. Rivera was placed on a Welfare and Institutions Code, 5150 hold on June 2, 2017, four days prior to this incident, for being a danger to himself and others (Investigators' Note No. 1).

Officers Ramirez and Urrutia were traveling south on Wilmington Boulevard and Officers Martinez and Sternin were driving north on Wilmington Boulevard when they crossed paths. The officers slowed their police vehicles as they passed each other and communicated that no activity had been observed.¹²

At 2053:23 hours, a surveillance camera from the apartment building located at 1149 North Wilmington Boulevard captured Rivera walking south on the west sidewalk of Wilmington Boulevard. Rivera was holding an object, which appeared to be a handgun, in his right hand as depicted in the following photograph. The time stamp on the video indicates that it was recorded at 2053:23 hours.¹³

vs containment mode. Officer Ramirez was the designated contact officer and Officer Urrutia was the cover officer.

¹¹ The officers were near the intersection of Pacific Coast Highway and Wilmington Boulevard when they heard the radio call. They responded Code-Two due to their close proximity to the location.

¹² The officers communicated through their open driver's side windows.

¹³ Investigators from Force Investigation Division determined that the time stamp on the surveillance video was accurate and matched the actual time. The video was booked under Technical Investigation Division (TID) File No. 710563.



Still Photograph Depicting Rivera Holding an Object in His Right Hand

At 2053:28 hours, Officer Sternin requested CD to contact the person reporting (PR) and obtain an updated suspect location. Communications Division advised the officers that the suspect was last seen walking in the direction of Anaheim Boulevard, toward a Mexican Market. Officer Martinez was aware of a Mexican Market located at the intersection of Wilmington Boulevard and L Street and drove in that direction. Officer Ramirez was aware of two Mexican Markets located along Wilmington Boulevard; one at the intersection of I Street and one at L Street.

According to Officer Ramirez, he drove south on Wilmington Boulevard at a slow rate of speed. He estimated that he was driving approximately five to ten miles per hour and activated his ambers to alert other vehicles of his presence.¹⁴ Both officers had their windows down and were looking for the PR, any possible suspect(s), and/or potential witnesses. As they proceeded south on Wilmington Boulevard, the officers observed Rivera walking south on the west sidewalk of Wilmington Boulevard in front of an apartment building located at 1109 North Wilmington Boulevard. The carport and walkways of the building were secured by a black wrought iron fence as depicted in the following photograph.¹⁵

¹⁴ Ambers are flashing yellow lights that are visible on the rear portion of the police vehicle's light bar. They are generally used as hazard lights.

¹⁵ The photograph of 1109 North Wilmington Boulevard was obtained from the website www.realtor.com.



Image of 1109 North Wilmington Boulevard¹⁶

OIG Note No. 3: *In their statements to FID, neither Officers Ramirez or Urrutia specified how far away from them the suspect was from them when they first saw him. However, Officer Ramirez stated, "We were in the No. 1 lane going southbound, still at the same 5 to 10 miles an hour. Then, around the area of Denni and Wilmington Boulevard, I see off to my right a male Hispanic, dark clothing, possibly between the age of 20 to 30. He's on the - - the west side of the street. He's behind two - - he's walking - - there's two vehicles parked on the sidewalk - - oh, I'm sorry - - on the - - the curb, against the curb. So, I can't really see what it - - if he has anything in his hands. And as we, like, move forward - - as we're moving forward closer to him, we're probably almost parallel."*¹⁷

Officer Ramirez noted that Rivera matched the description of the suspect provided by CD. Both officers stated that Rivera was yelling, but the words were unintelligible. Officer Ramirez stated, "*Maybe, to the right,*" referring to Rivera. According to Officer Urrutia, Rivera stopped, turned toward his left (counterclockwise) and faced the officers as they approached in their vehicle. Rivera looked in the officers' direction and yelled, "*What's up?*" followed by "*What the fuck?*" as captured on BWV. According to Officer Urrutia, "*I see this look in his eyes. He looks mad.*"¹⁸

¹⁶ The front/east side of 1109 North Wilmington Boulevard had a carport adjacent to the west sidewalk of Wilmington Boulevard that was equipped with artificial lighting.

¹⁷ Officer Ramirez's transcribed statement, Page 10, Lines 13-24.

¹⁸ Officer Urrutia's transcribed statement, Page 9, Lines 16-17.

Note: Officer Ramirez believed Rivera turned toward his right, in a clockwise direction.

According to Witness Agustin Leyva, Rivera stated, "*Leave me alone. Leave me alone.*" to the officers. Leyva further stated that it was very dark outside and he was unable to see any of Rivera's movements.

Officer Urrutia observed what he described as a light-colored semiautomatic pistol in Rivera's right hand. According to Officer Urrutia, Rivera was holding the gun in a close contact position at waist level and was moving the gun from side to side (left to right). Officer Urrutia yelled, "*Oh shit partner, gun!*"

OIG Note No. 4: *Officer Urrutia stated, "As I see the firearm, the guy's still yelling and he's now - - like I said, he's got the gun at his waist and he's aiming it. He's aiming it. It looked like he's aiming it at me, at my partner."*¹⁹

According to Officer Ramirez, he heard Officer Urrutia's announcement and simultaneously observed Rivera holding what he described as a black semiautomatic handgun in his left hand. Officer Ramirez observed Rivera raise the gun to a low-ready position, with the muzzle pointed in the officers' direction. According to Officer Ramirez, he would not have enough time to exit the vehicle if Rivera began shooting at him. Therefore, Officer Ramirez unholstered his pistol with his right hand while seated in the vehicle, with intentions of firing through the windshield if necessary.

Note: Officer Urrutia described Rivera's gun as being a light-colored semiautomatic pistol and believed it was in Rivera's right hand. Analysis of the available video and witness statements could not clarify which hand the gun was in at the time of the OIS.

Using his left hand, Officer Ramirez quickly turned the steering wheel toward the right and stopped diagonally, with the front of their vehicle pointed in a southwestern direction. According to Officer Ramirez, he positioned the vehicle in this manner to provide cover for himself and his partner while they performed a felony stop on Rivera. Officer Ramirez stopped the vehicle and believed he placed it into park. Both officers exited the vehicle and took cover behind their respective vehicle doors.

Note: Officer Ramirez believed he used his right hand to place the vehicle into park, while holding his pistol in the same hand. Per Officer Ramirez's BWV, he did not place the vehicle into park and did not make any overt movements to do so.

According to Witness Christopher Legaspi, the police vehicle slowed down, then reversed a short distance prior to the OIS.

¹⁹ Officer Urrutia's transcribed statement, Page 10, Lines 2-5.

Upon exiting the vehicle, Officer Ramirez utilized the driver's side door as cover, held his pistol in a two-hand shooting position, with the muzzle pointed at Rivera. Officer Ramirez ordered Rivera to drop the gun, but he (Rivera) did not comply with the command.²⁰ According to Officer Ramirez, Rivera raised the gun a second time, with the muzzle pointed in a northeasterly direction toward him and his partner.

Simultaneously, Officer Urrutia utilized the passenger side door as cover and unholstered his pistol with his right hand. Officer Urrutia, while holding his pistol in a two-hand shooting position, pointed his pistol at Rivera and ordered him to drop the gun.²¹ Rivera did not comply with the command.²²

Officers Urrutia and Ramirez believed that Rivera was pointing a pistol at them and was intent on killing them. In defense of their lives, Officers Urrutia and Ramirez fired their pistols at Rivera. Officer Urrutia fired four rounds at Rivera in a southwestern direction from an approximate distance of 30 feet. Officer Ramirez fired seven rounds at Rivera, also in a southwestern direction from an approximate distance of 29 feet. Rivera was struck by gunfire and immediately fell to the ground.

OIG Note No. 5: *"Officer Ramirez stated, 'Then, as I jump out of the vehicle, I - - I see he's raising his - - his left hand higher now, like, more than before. So, at that moment, I believed that he was gonna shoot me or my partner. So, I was in fear for my life, at - - at which point, I fired approximately, six to seven rounds at him.'"*²³

[This space intentionally left blank.]

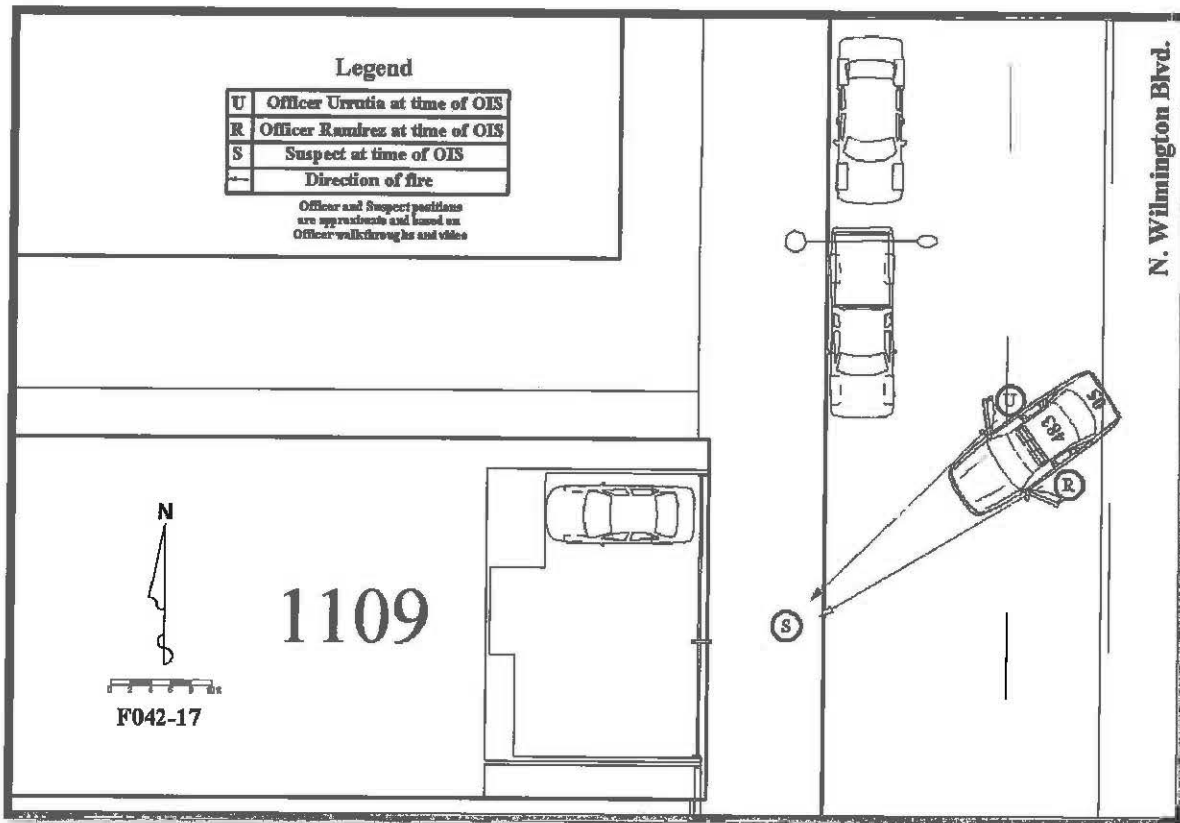
²⁰ As captured by his BWV, Officer Ramirez yelled, "Hey, drop it." to Rivera (referring to the gun).

²¹ Officer Urrutia was also holding his flashlight in his left hand.

²² According to Witness Elisa Carrillo, she heard an officer yell, "Put the gun down. Put the gun down."

²³ Officer Ramirez's transcribed statement, Page 13, Lines 9-14.

The diagram below depicts the officers' approximate positions at the time of the OIS based on walk throughs, video and physical evidence.



As determined by a review of the officers BWV, from the moment Officer Ramirez stated, "Maybe, to the right" to the sound of the first gunshot was approximately seven seconds. During that seven second time frame, the officers communicated their observations with one another, stopped and exited their vehicle, unholstered their pistols, and gave commands to Rivera (Investigators' Note No. 2).

Note: According to Harbor Division Narcotic Enforcement Detail, plain clothes Detective III Jonathan Zamora, Serial No. 32510, Officer Ramirez advised him during the Public Safety Statement (PSS) that he (Officer Ramirez) fired at Rivera in an easterly direction and that Rivera possibly fired shots at him and Officer Urrutia in a westerly direction.

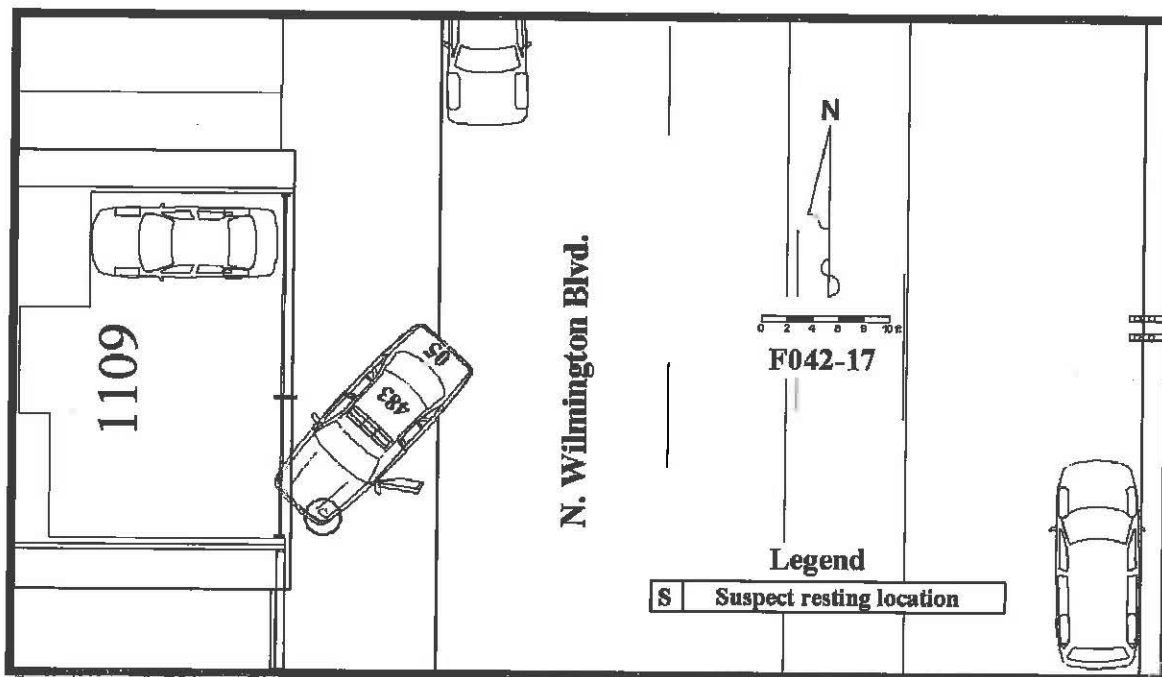
Immediately following the OIS, the officers noticed that their vehicle was rolling in a southwestern direction toward Rivera, who was lying on the sidewalk. Officer Ramirez holstered his pistol and attempted to step into the vehicle, as it was rolling, to apply the brakes. Officer Ramirez was unsuccessful and believes he may have inadvertently stepped on the brake pedal and accelerator simultaneously.

OIG Note No. 6: Officer Ramirez stated, "I'm - - I'm not sure, but I tried to jump in. I couldn't. I wasn't fast enough. Knowing that he was already down, I didn't want to run him over, because he had already been shot,

*more than likely. So, to render aid, I was gonna try to put it in park or at least stop it so he doesn't get run over more -- or -- or once. So, I put -- I tried to put my foot in the vehicle, on the brake. But I might have hit the brake and the gas, and the vehicle went over him."*²⁴

The police vehicle rolled up the driveway of 1109 North Wilmington Boulevard and pushed Rivera's body in a southwestern direction before the front bumper collided with the wrought iron fence, as depicted in the diagram below. Not knowing Rivera's condition and if he was still armed, Officer Ramirez unholstered his pistol and backed away from the vehicle.

OIG Note No. 7: Officer Ramirez stated, "So, after the vehicle ran over him, I -- I noticed that he was underneath the vehicle. Our -- our (Unintelligible) it. At that point, we were -- I was gonna try and pull him out, but I -- I remember, this guy's -- he might still be alive, he might still be armed. So, we redeployed back to the secondary unit that showed up immediately after the shooting took place. Then, we just waited for an additional unit, and may -- maybe a supervisor to figure out a game plan, like, how are we going to extract this guy, or -- or how we're gonna go about this, because the vehicle is on top of him, unfortunately."²⁵



Simultaneously, and within seconds of the OIS, Officer Urrutia alerted Officer Ramirez that the vehicle was not in park. While walking alongside the passenger side of the vehicle as it rolled, Officer Urrutia tripped over the lip of the driveway. Officer Urrutia

²⁴ Officer Ramirez's transcribed statement, Page 14, Lines 9-20.

²⁵ Officer Ramirez's transcribed statement, Page 15, Lines 13-25, and Page 16, Line 1.

fell, striking his right elbow on the concrete.²⁶ Officer Urrutia immediately stood up and broadcast a help call advising that shots were fired at 1109 Wilmington Boulevard.²⁷

Officers Martinez and Sternin were traveling east on L Street toward Wilmington Boulevard when they heard multiple shots fired.²⁸ Sergeant Talmage advised that he was in the area of Wilmington Boulevard and Anaheim Street when he too heard multiple gunshots.

At 2054:58 hours, Officer Martinez broadcast that shots were heard in the area of King and L Street.²⁹

Officer Martinez turned south on Wilmington Boulevard from L Street and arrived at scene within seconds of the OIS. Upon arrival, Officer Martinez stated that he observed Officers Urrutia and Ramirez in the street with their guns drawn.³⁰ Officer Martinez parked his police vehicle on Wilmington Boulevard northeast of Officers Ramirez and Urrutia's vehicle. Officers Martinez and Sternin exited their police vehicle and took cover behind their respective vehicle doors.

Officer Urrutia observed Officers Martinez and Sternin arrive at scene and directed Officer Ramirez to redeploy for cover behind their police vehicle. Officer Urrutia sought cover behind the passenger side door and Officer Ramirez took cover behind the driver's side door. Officer Urrutia immediately informed Officers Martinez and Sternin that Rivera was underneath his police vehicle. Officers Martinez and Sternin unholstered their pistols.

Officers Martinez and Sternin held their pistols in two-hand, low-ready positions with their fingers along the frame. Both officers had their muzzles pointed in a southwestern direction toward Officer Ramirez's police vehicle. The officers were unable to see Rivera from this location. Officer Sternin turned on the passenger side spotlight and illuminated the police vehicle/driveway area of 1109 North Wilmington Boulevard.

At 2055:51 hours, Sergeant Talmage arrived at scene, parking his vehicle just south of the OIS scene, diagonally, with the front of his vehicle pointed in a northwesterly direction with the headlights illuminating Rivera. Sergeant Talmage unholstered his pistol, which he held in a two-hand, low ready position and sought cover on the north

²⁶ Officer Urrutia stated that the injury to his right elbow caused him extreme pain.

²⁷ Officer Urrutia's broadcast was not heard on Harbor Frequency, but was captured on his BWV audio. It appears that his broadcast was stepped on by another unit.

²⁸ The sound of the gunshots was captured on Officer Sternin's BWV.

²⁹ It appears that Officer Martinez made this broadcast as Officer Urrutia attempted to broadcast a help call. King Avenue was one street west of Wilmington Boulevard.

³⁰ The DICVS for Officers Martinez and Sternin's vehicle, Shop No. 88629, depicts their arrival at the OIS scene. The video captured Officers Urrutia and Ramirez walking backward in a northeasterly direction in the southbound lanes of Wilmington Boulevard.

side of his vehicle. According to Sergeant Talmage, Rivera was not moving or making any sounds and appeared to be deceased.³¹ Sergeant Talmage advised the officers that Rivera was down and requested a Rescue Ambulance (RA) for Rivera at approximately 2056 hours. Believing Rivera was no longer a threat, Sergeant Talmage holstered his pistol (Investigators' Note No. 3).

Note: According to Witness Roberto Canchari, he observed Rivera move while underneath the police vehicle (Investigators' Note No. 4).

Officer Urrutia advised Officer Sternin that he was injured and required an RA. When asked if he had been shot, Officer Urrutia stated that he was unsure what caused his injury. Officer Martinez requested a second RA for Officer Urrutia. Officer Urrutia took cover behind a police vehicle (Shop No. 89189) and awaited the arrival of the RA.³²

At approximately 2057 hours, after learning that Officer Urrutia was injured, Sergeant Talmage repeated the request for a second RA. Sergeant Talmage was aware that moving an injured person can cause additional injury or exasperate the existing injury. Therefore, Sergeant Talmage formulated a plan to establish an arrest team and approach Rivera once the ambulance arrived at scene. Sergeant Talmage was unaware that Officer Ramirez was involved in the OIS and as a result included him as part of the arrest team.³³

Note: Sergeant Talmage did not immediately identify Officer Ramirez as being one of the involved officers. A review of BWV depicts Sergeant Talmage being preoccupied with the on-going tactical situation from the moment he arrived at scene.

At approximately 2059 hours, as captured on DICVS and BWV, Harbor Patrol Division uniformed Sergeant I James Doull, Serial No. 35993, arrived at scene. Sergeant Doull immediately made contact with Officer Urrutia, who was injured and leaning against a police vehicle. Sergeant Doull advised Sergeant Talmage to handle the tactical portion of the incident and he would care for Officer Urrutia.

Note: The Sergeant's Daily Report, completed by Sergeant Doull, indicated that he responded to the incident at approximately 2130 hours, although his BWV captured his response at approximately 2055 hours.

At approximately 2105 hours, Harbor Patrol Division uniformed Watch Commander, Sergeant II Bradley Hearn, Serial No. 31170, responded to the scene and declared

³¹ Sergeant Talmage estimated that he was approximately 20 feet away from Rivera when he made the observation.

³² Officer Urrutia did not have any visible injury.

³³ According to the BWV that was reviewed, Officer Ramirez did not discuss the incident with any officers prior to being separated by Officer Lopez.

himself the Incident Commander. Upon arrival, Sergeant Hearn checked on Officer Urrutia and ensured that an RA was requested.

At approximately 2105 hours, LAFD Engine No. 49 arrived at scene. With LAFD standing by, Sergeant Talmage directed the arrest team to approach Rivera, at which time the officers determined that Rivera was not armed. Once it was safe for LAFD personnel to approach, Firefighter/Paramedic Paul Cullen rendered aid to Rivera and determined that he was dead at scene at approximately 2110 hours.³⁴

OIG Note No. 8: Firefighter/Paramedic Cullen Stated, "I did my assessment. When I - - when I turned up - - when I checked his pulse, I checked his breathing, his reflexes, I determined that he was pulseless, apneic - - pulseless, nonbreathing, no signs of life. And with our protocol reference 814, we can pronounce in the field after we've gone through certain assessments, checking - - checking for his pulse, checking for lung sounds, neurological reflex, pain stimuli, things like that, and if we see evisceration of the heart, brains, or lung. And I seen - - I seen brain matter on the curb around about his head area and a pool of blood already trickling down on the pathway - - on the sidewalk."³⁵

At approximately 2106 hours, RA No. 38, manned by Firefighter/Paramedics Noe Lopez and Thomas Wells, arrived at scene and rendered aid to Officer Urrutia. He was ultimately transported to Harbor-UCLA Medical Center for further medical treatment. Sergeant Doull accompanied Officer Urrutia to the hospital. Sergeant Doull monitored Officer Urrutia, obtained a Public Safety Statement (PSS), and admonished him not to discuss the incident.

At approximately 2109 hours, Harbor Division uniformed Police Officer III Enrique Lopez, Serial No. 36989, identified Officer Ramirez as being one of the involved officers. Officer Lopez stayed with Officer Ramirez until he was relieved by Detective Zamora at approximately 2112 hours. Detective Zamora obtained a PSS individually from Officer Ramirez and admonished him not to discuss the incident (Investigators' Note No. 5).

At approximately 2110 hours, Sergeant Talmage advised Sergeant Hearn that there were two involved officers and multiple percipient officers. Sergeant Hearn requested additional supervisors to assist with the monitoring responsibilities.

At approximately 2135 hours, Real-Time Analysis and Critical Response (RACR) Division was notified of the Categorical Use of Force (Addendum No. 1).

³⁴At 2106:41 hours, the DICVS for Officer Martinez's vehicle (Shop No. 88629) captured the arrest team approach Rivera. Due to Rivera's injuries, the officers did not search or handcuff Rivera at the scene. At 2107:20 hours, LAFD personnel approached Rivera.

³⁵ Firefighter/Paramedic Cullen's transcribed statement, Page 5, lines 1-12.

At approximately 2155 hours, Commander Robert Lopez, Serial No. 22131, was the first representative from Force Investigation Division (FID) to arrive at scene.

At approximately 0351 hours, Forensic Science Division (FSD), Firearms Analysis Unit (FAU) Criminalists II Jessica Moody, Serial No. N4576, and Annette Woiwode, Serial No. N4427, arrived at scene.

Force Investigation Division Detective II Brandy Arzate, Serial No. 34394, reviewed all documents and circumstances surrounding the separation, monitoring, and admonitions not to discuss the incident to the officers prior to being interviewed by FID investigators. The documentation reviewed indicated that all of the protocols were not followed (Investigators' Note No. 6 and Addendum No. 2).

Scene Description

The OIS occurred in front of 1109 North Wilmington Boulevard, in the City of Wilmington. Wilmington Boulevard was a north/south street and had two lanes available for southbound traffic and one lane for northbound traffic. Parking was available along the east and west curbs of Wilmington Boulevard. The surrounding residential area consisted of a mixture of single-family residences and multi-unit apartment buildings.

This incident occurred during the hours of darkness at approximately 2055 hours. Artificial lighting was provided by a street-light located on the west curb of Wilmington Boulevard north of the OIS scene, as well as lighting within the carport of 1109 North Wilmington Boulevard. The weather was clear and dry.

On June 6, 2017, at approximately 2109 hours, Harbor Patrol Division personnel erected the homicide tent, as captured on DICVS (Investigators' Note No. 7).

Canvass for Witnesses

On June 6, 2017, Harbor Division and FID personnel conducted a canvass of the area for witnesses to the OIS.

On June 13, 2017, FID personnel conducted an additional canvass of the area. Unless otherwise noted, the statements of all witnesses were recorded and transcribed and are contained in this report (Investigators' Note No. 8).

There were 46 witnesses who only heard shots. The number of gunshots heard by witnesses ranged from one to thirteen.³⁶

³⁶ The interviews of the Heard Only witnesses were documented on a Heard Only Witness Form for Civilians. These interviews were not recorded or transcribed.

Suspect Information

Eric Thomas Rivera was a male Hispanic with black hair and brown eyes. At the time of the incident, he was five feet six inches tall, with a weight of 135 pounds and a date of birth of October 25, 1996. Rivera was identified by CII No. A33843104 and had an extensive criminal history dating back to September of 2013. Rivera had no known gang affiliation (Addendum No. 3).

Force Investigation Division Detective Arzate, contacted the LAPD Mental Evaluation Unit (MEU) and determined that Rivera had no prior contact with the LAPD MEU.

Los Angeles Police Department Investigative Reports were completed for Brandishing a Replica Firearm against Officers Urrutia and Ramirez, naming Rivera as the suspect (Addendum No. 4).

A Los Angeles Police Department Follow-Up Investigation Report was completed with a case status of Cleared Other (Addendum No. 5).

Injuries

At approximately 2059 hours, the LAFD received an alarm to respond to 1109 North Wilmington Boulevard. At approximately 2105 hours, LAFD Engine No. 49, arrived at scene. Firefighter/Paramedic Paul Cullen rendered aid to Rivera and determined that he was dead at scene at approximately 2110 hours (Addendum No. 6).

At approximately 2106 hours, RA No. 38, manned by Firefighter/Paramedics Noe Lopez and Thomas Wells, arrived at scene and rendered aid to Officer Urrutia for an injury to his right elbow.³⁷ Officer Urrutia was ultimately transported to Harbor-UCLA Medical Center for medical treatment. Sergeant Doull accompanied Officer Urrutia to the hospital.

Evidence

On June 7, 2017, at approximately 0351 hours, Criminalists Moody and Woiwode responded to the scene and conducted an examination of the OIS scene for evidence, including but not limited to ballistic impacts, trajectories and projectiles. As a result of their examination, numerous items of evidence were recovered. Included in those items were seven .40 caliber cartridge casings (Items 1-7), four .45 caliber cartridge casings (Items 8-11), fired bullets and bullet fragments (Items 12-17), a baseball hat (Item No. 18), a shoe (Item No. 19), and a toy water gun (Item No. 20).

There was a total of 31 items of evidence booked in conjunction with this incident (Addendum No. 7 and 8).

³⁷ Officer Urrutia strained his right arm and sustained a contusion to his right elbow.

On August 1, 2017, Detective Arzate completed a Request for Serology/Deoxyribonucleic Acid (DNA) Analysis Report, Form No. 12.56.00. Detective Arzate requested that the plastic water gun be swabbed for potential DNA evidence. It was further requested that the swab collected from the plastic gun be compared to Rivera's blood card.

The laboratory report was completed on October 31, 2017, and revealed that the DNA profile obtained from the toy gun matched the DNA profile obtained from Rivera's blood sample. (Addendum No. 9).

Coroner's Investigation

Coroner's Response:

On June 6, 2017, at approximately 2340 hours, the Los Angeles County Department of Medical Examiner-Coroner's Office was notified regarding Rivera's body.

On June 7, 2017, at approximately 0801 hours, Coroner's Investigator Anthony Lopez arrived at scene and conducted an investigation. Prior to transporting Rivera's body to the Los Angeles County Forensic Science Center (LACFSC), Lopez collected a Gunshot Residue (GSR) kit and hair kit (Addendum No. 10).

At approximately 0920 hours, Los Angeles Fire Department, Heavy Rescue No. 3, staffed by Firefighters Brian Labrie, Serial No. 37906 and Jesse Franco, Serial No. 22860 responded to the scene.³⁸ The Heavy Rescue Rig was used to lift Shop No. 89483, to enable personnel to recover Rivera's body and preserve any physical or forensic evidence.

At approximately 1140 hours, LACFSC Attendant Brian Bey transported Rivera's remains to LACFSC.

Note: Page one of Investigator Lopez's Case Report identified Force Investigation Division, Detective II Nicholas Pikor, Serial No. 35384, as Detective Picor.

Autopsy:

On June 11, 2017, at approximately 1000 hours, Los Angeles County Department of Medical Examiner-Coroner Deputy Medical Examiner Timothy Dutra performed a post-mortem examination of Rivera's remains. Force Investigation Division Detective III Peter Stone, Serial No. 27168, and Detective II Arturo Espino, Serial No. 31892, along with Los Angeles County District Attorney Investigator Sonia Florez, were present

³⁸ The Los Angeles Fire Department Heavy Rescue Rig is a specialized tow truck. It is used in a wide variety of situations including pulling crushed vehicles apart, righting overturned vehicles, and lifting heavy objects.

during the examination. Doctor Dutra concluded Rivera's death was caused by gunshot wounds to the head, chest, and extremities.

In addition, Doctor Dutra obtained specimens from Rivera for toxicological analysis (Addendum No. 11).

Doctor Dutra determined that Rivera sustained seven gunshot wounds. The wounds were arbitrarily numbered.

Gunshot Wound No. 1 entered the right side of the neck. The trajectory of the bullet was back to front, leftward at an upward angle. The projectile was recovered from the right superior posterior portion of Rivera's neck.

Note: During a subsequent conference with Doctor Dutra, he advised investigators from FID that Gunshot Wound No. 1 was an immediate fatal wound (Investigators' Note No. 9).

OIG Note No. 9: *During the review of this case, the OIG was contacted by FID concerning the accuracy of the Medical Examiner-Coroner's autopsy report. FID advised that a discrepancy had been identified between the photographic evidence depicting the suspect's wounds and the documentation in the autopsy report concerning Gunshot Wound No. 1.*

FID detectives subsequently met with Dr. Dutra, the Deputy Medical Examiner who had performed the initial autopsy. Dr. Dutra advised that he had not seen the wound located behind the suspect's left ear. Because of this error he had incorrectly evaluated Gunshot Wound No. 1, and subsequently incorrectly documented the related wound and bullet path.

Dr. Dutra advised that the new evaluation for Gunshot Wound No. 1 indicated its entrance wound was located just to the rear of the left ear and that the bullet traveled rightward, downward, and backward, fracturing the skull, and traveling through the soft tissue of the neck, coming to rest in the soft tissues of the neck, with a gunshot-related exit wound on the right side of the neck, where the bullet was recovered (this exit wound on the right side had initially been incorrectly documented as the entrance wound). The supplement to the autopsy report and a supplement to the FID Investigation Summary are attached to this report.

Gunshot Wound No. 2 entered the right side of the chest. The trajectory of the bullet was front to back, rightward and at a downward angle.

Gunshot Wound No. 3 entered the right hip. The trajectory of the bullet was front to back at a downward angle. The projectile was recovered from the right buttock.

Gunshot Wound No. 4 entered the right hip. The trajectory of the bullet was back to front, leftward and at a downward angle. The projectile was recovered from the right thigh.

Gunshot Wound No. 5 entered the left thigh. The trajectory of the bullet was back to front and rightward. Bullet fragments were recovered from the left thigh area.

Gunshot Wound No. 6 entered the right shin. The trajectory of the bullet was front to back. The projectile was recovered from the right shin area.

Gunshot Wound No. 7 was a graze wound to the left ankle. The trajectory of the bullet could not be established.

Rivera also sustained multiple abrasions to his face, torso and extremities as well as skin slippage to the posterior aspects of the thighs and left lower leg.

Note: Due to the fact that Doctor Dutra did not document or render an opinion as to the severity of the abrasions he noted in his report, nor an opinion as to the cause of the skin slippage, FID investigators requested to meet with Doctor Dutra.

During the subsequent conference with Doctor Dutra, he advised that the abrasions to Rivera's face, torso and extremities were superficial injuries and did not cause his death.

Doctor Dutra further stated that the skin slippage could have been caused from the heat emitting from the police vehicle and/or friction from the pavement. According to Doctor Dutra, there were no injuries indicating that the police vehicle rolled over Rivera's body.

Coroner's Test Results:

Toxicology:

On September 21, 2017, a Laboratory Analysis Summary Report was reviewed and approved by Doctor Dutra. The analysis results documented Rivera tested positive for Amphetamine, Methamphetamine, and Marijuana (Addendum No. 12).

Gunshot Residue:

Investigator Anthony Lopez completed a GSR kit on Rivera prior to transporting his remains.

On November 16, 2017, Supervising Criminalist I Debra K. Gibson concluded her analysis of the GSR kit. The results determined that both of Rivera's hands contained particles of gunshot residue (Addendum No. 13).

Clothing Analysis

There was no clothing analysis completed relative to this investigation.

Weapons



Eric Thomas Rivera was armed with a plastic toy water gun during this incident. The gun was green and black in color and contained water. The gun was recovered from the driveway of 1109 North Wilmington Boulevard.

Officer Urrutia was armed with a Department approved .45 caliber Glock, Model 21, semiautomatic pistol. The pistol was carried in a black Department approved double retention

holster. According to Officer Urrutia, at the time of the OIS, his pistol was loaded to capacity with 14 rounds of Federal Premium, Department-approved .45 caliber ammunition. Thirteen rounds were in the magazine and one round was in the chamber of the pistol.

On June 7, 2017 at approximately 0126 hours, Detective Espino conducted a post-incident examination of Officer Urrutia's pistol. He determined the pistol was loaded with one round in the chamber, and 9 rounds in the magazine. He also inspected two additional magazines that were carried in Officer Urrutia's magazine pouch. The magazines were each loaded with thirteen rounds of Federal Premium, Department-approved .45 caliber ammunition. The results of the magazine count were consistent with Officer Urrutia firing four rounds during the OIS.

On June 12, 2017, FSD, FAU Criminalist II Daniel Rubin, Serial No. G9077, examined and test-fired Officer Urrutia's pistol. The pistol's measured trigger pull was within Department specifications (Addendum No. 14).

Detective Arzate verified that Officer Urrutia's .45 caliber Glock pistol was entered into the Firearm Inventory Tracking System on October 6, 2010.

Officer Ramirez was armed with a Department-issued .40 caliber Glock, Model 22, semiautomatic pistol. His pistol was carried in a black Department approved double-retention holster. According to Officer Ramirez, at the time of the OIS, his pistol was loaded to capacity with 16 rounds of Smith and Wesson Winchester Ranger, Department-approved .40 caliber ammunition. Fifteen rounds were in the magazine and one round was in the chamber of the pistol.

On June 7, 2017, at approximately 0151 hours, Detective Espino conducted a post-incident examination of Officer Ramirez's pistol. He determined the pistol was loaded with one round in the chamber, and eight rounds in the magazine. He also inspected

two additional magazines that were carried in Officer Ramirez's magazine pouch. The magazines were each loaded with 15 rounds of Smith and Wesson Winchester Ranger, Department-approved .40 caliber ammunition. The results of the magazine count were consistent with Officer Ramirez firing seven rounds during the OIS.

On June 9, 2017, FSD, FAU, Criminalist II Alan Perez, Serial No. N3438, examined and test-fired Officer Ramirez's pistol. The pistol's measured trigger pull was within Department specifications (Addendum No. 15).

Detective Arzate verified that Officer Ramirez's .40 caliber Glock pistol was entered into the Firearm Inventory Tracking System on October 1, 2009.

Firearms Analysis

On June 7, 2017, Criminalists Moody and Woiwode performed a bullet path analysis examination of the vicinity of 1109 North Wilmington Boulevard pursuant to the OIS. The criminalists identified three impacts with two corresponding pathways. All three impacts were non-penetrating and located on the wrought iron fence in front of 1109 North Wilmington Boulevard.

Pathway A (Impacts A and A1) were consistent with a bullet traveling from north to south, east to west, in a level direction.

Pathway B (Impact B) was consistent with a bullet traveling from north to south, east to west, in a downward direction (Addendum No. 16).

Eleven expended cartridge casings were recovered from the street in front of 1113 North Wilmington Boulevard. It was determined that the cartridge casings recovered were fired from Officers Urrutia and Ramirez's pistols (Addendum No. 17).

Vehicles

Los Angeles Police Department, Shop No. 89483, was a Ford Crown Victoria marked black and white police vehicle, registered to the City of Los Angeles. Immediately following the OIS, the police vehicle collided with a wrought iron fence causing visible damage to the front bumper.

At the time of the crime scene investigation, it was noted that the front driver's side door was fully opened. The police vehicle was at rest facing in a southwest direction on the sidewalk in front of 1109 North Wilmington Boulevard. Emergency Operation Division (EOD), Multi-Disciplinary Collision Investigation Team (MCIT), Police Officer III Jahna Rinaldi, Serial No. 30575, responded to the scene and conducted a traffic collision investigation (Addendum No. 18).

The vehicle was photographed and processed at scene by FSD personnel. The vehicle was towed to C. Erwin Piper Technical Center located at 555 Ramirez Street, Los Angeles, California 90012.³⁹

On July 5, 2017, the vehicle was inspected by Equipment Mechanic George Aboukal, Serial No. N3117. Technical Investigation Division, Photographer III Renato Viduya, Serial No. N1332, took photographs and video of the inspection. During the inspection, no significant mechanical or equipment concerns were identified. The photographs are stored under D No. 0627626 and the video under D No. 0627627 (Addendum No. 19).

Visual Documentation

Digital In-Car Video System (DICVS)

Twenty-nine police vehicles equipped with DICVS responded to this incident and the entirety of the videos were reviewed by FID investigators. The OIS was not captured by DICVS. The following is a synopsis of DICVS that had significant evidentiary relevance and value.

The DICVS for Officers Martinez and Sternin's vehicle, Shop No. 88629, was activated at approximately 2050:38 hours and depicts their arrival at the OIS scene. At 2055:07 hours, the video captured Officers Urrutia and Ramirez walking backward in a northeasterly direction in the street of Wilmington Boulevard. At 2106:41 hours, the DICVS captured the arrest team approach Rivera followed by LAFD personnel at 2107:20 hours.

Body Worn Video (BWV)

Twenty-six police officers activated their BWV during this incident and the entirety of the videos were reviewed by FID investigators. The following is a synopsis of BWV that had significant evidentiary relevance and value.

Officer Urrutia activated his BWV at approximately 2051 hours and Officer Ramirez at approximately 2052 hours. The BWV captured the response of Officers Ramirez and Urrutia as well as the OIS. However, the videos did not capture a clear and identifiable account of Rivera's actions, the position of his body, or a presence of an object in his hand or lack thereof.

Social Media

Personnel assigned to FID's Cyber Unit monitored social media sites from the date of the incident until the submission of this investigation. No additional evidence, information, or witnesses were identified via social media.

³⁹ As of January 17, 2018, Shop No. 89483 was still located at C. Erwin Piper Technical Center pending body repair. The vehicle is on a litigation hold.

Other Department Video

On July 5, 2017, Photographer Viduya took video during the mechanical inspection of Shop No. 89483. The video is stored under TID File No. 0627627.

Outside Video

Force Investigation Division investigators identified and obtained four surveillance videos from surrounding apartment buildings. With the exception of the video obtained from 1149 North Wilmington Boulevard, the videos did not contain any evidentiary relevance. The videos were filed under the TID File Nos:

- 710563 – 1149 North Wilmington Boulevard.
- 710564 – 1150 North Wilmington Boulevard.
- 710565 – 1255 North Wilmington Boulevard.
- 710566 – 1132 North Wilmington Boulevard.
- 721256 – Post incident cellular telephone video recorded by Witness Kenia Parga.

Surveillance cameras located at below locations were determined to be decoy cameras:

- 1109 North Wilmington Boulevard.
- 1113 North Wilmington Boulevard.
- 1119 North Wilmington Boulevard.

The Jack in the Box restaurant located at 1010 West Pacific Coast Highway was equipped with surveillance cameras. Detective Espino went to the restaurant with Police Surveillance Specialist I Jesse Sasaki, Serial No. N2400. Unfortunately, the video date and time was out of sequence and they were unable to locate the related surveillance video, despite their extensive search and review of the video system.

Photographs

Technical Investigation Division Photographers III Gary Raives, Serial No. V9103 and Robert Stichal, Serial No. N1962, responded to the scene. Photographs of the OIS scene and associated evidence are stored under Control Nos. 0627574, 0627575, 0627578, 0627650, and 0627626.

Notifications

On June 6, 2017, at approximately 2135 hours, Real-Time Analysis and Critical Response (RACR) Division was notified of the OIS and the details of the subsequent notifications are attached (Addendum No. 1).

Personnel at Scene

Force Investigation Division Commander Robert Lopez, Serial No. 22131, was the first representative from FID to arrive at scene. Crime scene logs documenting additional personnel at the location are contained within the FID case file and are available for review.

Communications

A copy of the CD Incident Recall printout relative to Incident No.170606005212, is on file at FID. A digital recording of Harbor Division's base frequency and 911 calls related to the same incident are stored at FID.

Justice System Integrity Division

This case met the criteria for presentation to the Justice System Integrity Division and will be presented shortly after completion of this administrative report.

Investigators' Notes

1. During the course of this investigation, investigators from Force Investigation Division became aware of additional police contacts involving Rivera in the months leading up to the OIS; including but not limited to the below encounters:

April 13, 2017 – A citizen reported to the Hermosa Police Department that Rivera threatened to shoot him and his family with an assault rifle because they refused to give him food. During the investigation, Rivera informed officers that he will eventually commit suicide and speaks to people who are not there. Rivera, who was not armed at the time of the incident, was placed on a Welfare and Institutions Code 5150 hold. Hermosa Beach Police Department, Report No. 17-864.

May 8, 2017 – Los Angeles Police Department (LAPD), Harbor Division, Police Officers II Alan Woodard, Serial No. 37419, and Mark Miraglia, Serial No. 36737, responded to a radio call of an Assault with a Deadly Weapon (ADW) in progress. As the officers arrived at scene, they observed Rivera, the possible victim of the ADW, standing behind a chain link fence at a park. Before the officers could establish any contact with Rivera, he ran toward the officers, yelled, "What's up bitch?" and jumped onto the chain link fence. Rivera then used his hands to simulate a gun and pretended to shoot at the officers. The incident was captured on BWV.

Rivera ultimately ran away from the officers and went deeper into the park where he encountered security guards. One of the security guards, Victim Eric Perez, attempted to make contact with Rivera. Rivera told Perez, "You wanna fight me, I'm going to fuck you up" and proceeded to punch Perez on the left side of his face. A battery investigation was completed and Rivera was transported to Providence Little

Company of Mary Medical Center in Torrance for being under the influence of an unknown substance. Rivera was ultimately sedated and was unable to be released for booking. With the approval of the Harbor Patrol Division Watch Commander, Sergeant II Bradley Hearn, Serial No. 31170, a battery report was completed and Rivera was released from custody. LAPD Report No. 17-05-00858.

June 2, 2017 - Four days prior to the OIS, Hermosa Beach Police Department investigated a petty theft incident involving Rivera. During the investigation, Rivera, although unarmed at the time of the incident, threatened to shoot and kill a police officer. Rivera then threatened to kill himself and ran into the ocean. He was ultimately detained and held for Welfare and Institutions Code 5150.

2. Force Investigation Division, Investigative Support Unit (ISU), Police Officer III Chant Salbazian, Serial No. 37208, analyzed the BWV of Officers Ramirez and Urrutia in an attempt to capture a clear image of Rivera at the time of the OIS. Due to the lighting conditions as well as the officers' positions and movements, he was unable to improve the quality of the BWV.
3. During his interview, Sergeant Talmage referred to Harbor Patrol Division, uniformed Police Officer II Jonathan Chandler, Serial No. 38434, assisting him at the scene. Officer Chandler was not present at the time of the OIS and was not interviewed.
4. According to Witness Canchari, he recorded a portion of the incident with his cellular telephone, but erased the video prior to being interviewed.

Witness Canchari stated that he recorded additional video using his friend Elena "Luz" Orozco's cellular telephone. On June 15, 2017, Force Investigation Division, Detective II Eduardo Gonzalez, Serial No. 34548, called and spoke with Orozco. Orozco advised Detective Gonzalez that she would check her phone to verify if there is any video on it. Orozco requested Detective Gonzalez call her back in 30 minutes.

When Detective Gonzalez called back, Orozco did not answer. Detective Gonzalez left a message on her voicemail. Detective Gonzalez attempted to contact Orozco numerous times throughout the day with negative results. Orozco never responded to the voicemail messages.

5. Officer Lopez did not witness the OIS and was not significantly involved. Therefore, he was not interviewed.
6. The investigation determined that supervisors at scene did not immediately identify Officer Ramirez as an involved officer. There was a delay of approximately 12 minutes.

Force Investigation Division, Lieutenant II James Antenucci, Serial No. 26784, informed Harbor Area Captain III Michael Oreb, Serial No. 25109, of the issue and was advised that he would address the issue at the divisional level as training.

7. During the deployment of the Crime Scene Canopy, cross-contamination procedures were not followed, as protective booties were not applied to the legs of the canopy prior to its deployment at this scene, which is delineated in the Deployment and Use of the Crime Scene Canopy, Operations Order No. 1, dated February 23, 2016. Per the canopy log, it was last deployed on April 5, 2017, at an accidental death investigation. The comments of the log indicated that the canopy protocols were followed.

Lieutenant Antenucci informed Captain Oreb of the issue and was advised that he would address the issue at the divisional level as training.

8. Detective Arzate attempted to contact possible heard only witnesses Kimberly Mendoza, Jefferson Mendoza, Laurentino Cisneros, Noe Raigoza, Benjamin Bermudez and Christina Martin telephonically with negative results. Detective Arzate left messages for all the named individuals but received no responses.
9. On December 21, 2017, at approximately 1400 hours, Detectives Arzate and Stone met with Doctor Dutra at the Los Angeles County Coroner's Office to discuss the case. During the meeting, Doctor Dutra, Detective Arzate and Detective Stone reviewed the Autopsy Report as well as the crime scene and Coroner photographs.

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CHIEF OF POLICE REPORT⁴⁰

Chief of Police Findings

Tactics – Tactical Debrief, Officers Ramirez and Urrutia.

Drawing/Exhibiting – In Policy, No Further Action, Officers Ramirez and Urrutia.

Lethal Use of Force – In Policy, No Further Action, Officers Ramirez and Urrutia.

Chief of Police Analysis

Detention

- The officers responded to a radio call of a 415 Man with a Gun. As the involved officers drove south on Wilmington Boulevard, they observed the suspect standing on the sidewalk holding a handgun in his hand. When the officers gave the suspect commands to drop the gun, the suspect pointed the gun in their direction, resulting in an OIS. The officers' actions were appropriate and within Department policies and procedures.

Tactics

- *Department policy relative to Tactical Debriefs is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance" (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques).*

⁴⁰ The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, the involved officers were faced with a rapidly unfolding tactical situation when they observed the suspect on a sidewalk holding a handgun in his hand. When the officers gave the suspect commands to drop the gun, the suspect turned toward the officers and pointed the gun in their direction.

Faced with an imminent threat of serious bodily injury or death, the officers utilized lethal force to stop the deadly threat.

Debriefing Points

- **Situational Awareness** – The investigation revealed that Officer Ramirez exited the vehicle to engage an armed suspect without placing the vehicle in park. As such, the vehicle continued to roll forward alongside Officers Ramirez and Urrutia and towards Rivera. Officer Ramirez is reminded that not placing the vehicle park can place officers and the community in danger. The Chief directed that this be a topic of discussion during the Tactical Debrief.

Command and Control

- Sergeant Talmage responded, assumed the role of IC, and assessed the ongoing tactical situation. He ensured the well-being of Officer Urrutia, who was initially reported to have been struck by gunfire, and formulated a tactical plan to take Rivera into custody and get him medical treatment as soon as possible.

However, the UOFRB noted that when the contact team approached Rivera there appeared to be some confusion amongst the officers as to their individual roles and responsibilities. Although, the suspect appeared to display no obvious signs of life to Sergeant Talmage, Sergeant Talmage is reminded of the importance of ensuring that all personnel at the scene are aware of the tactical plan.

Sergeant Hearn responded and assumed the role of IC from Sergeant Talmage. He requested additional supervisors to the scene and ensured the involved officers were identified, separated and monitored.

Sergeant Doull responded, accompanied Officer Urrutia to the hospital and obtained a PSS from him. Detective Zamora responded and obtained a PSS from Officer Ramirez.

The actions of these supervisors were consistent with Department supervisory training and met the Chief's expectations of field supervisors during a critical incident.

Tactical Debrief

- Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, the Chief directed that Officers Ramirez and Urrutia attend a Tactical Debrief and that the specific identified topics are covered.

Note: Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Radio and Tactical Communication (including Code Six);
- Tactical Planning;
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

General Training Update (GTU)

- On June 29, 2017, Officers Ramirez and Urrutia attended a GTU. All the mandatory topics were covered, including Pedestrian Contacts and Force Option Simulator.

Drawing/Exhibiting

Department policy relative to drawing and exhibiting a firearm is: "An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified" (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).

According to Officer Ramirez, he heard his partner say, "Oh shit. Gun.", observed Rivera turn around with a handgun in his left hand and *immediately* drew his service pistol.

Officer Ramirez recalled, "...my partner said, 'Oh shit. Gun.'...I didn't see the gun at first...within a split second, I saw it because he was making...he was completing his clockwise turn. So that's when I saw it. Immediately, then, I drew it."⁴¹

According to Officer Urrutia, he observed Rivera *holding a gun in his right hand*, exited the vehicle and drew his service pistol.

⁴¹ Officer Ramirez, Page 26, Lines 15-24.

Officer Urrutia recalled, *"As soon as I exited the vehicle, I drew my firearm, because I had a reasonable belief the situation could escalate to the use of deadly force. That's when I drew my firearm."*⁴²

According to Officer Ramirez, he *noticed* Rivera was underneath the vehicle and was going to try and pull him out and then realized Rivera *might still be armed*, so he drew his service pistol for a second time.

Officer Ramirez recalled, *"...once I was trying to stop the car, I holstered...because it's pretty much impossible to throw it in park with a left hand with the gun...and then, after it was unsuccessful and it crashed...I drew out again...Because I don't know if he's still alive or still armed."*⁴³

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Officers Ramirez and Urrutia, while faced with similar circumstances, would reasonably believe there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the Chief found Officers Ramirez and Urrutia's Drawing/Exhibiting to be In Policy, No Further Action.

Note: In addition to the above listed employees, there were additional personnel that either drew or exhibited a firearm during the incident. This Drawing/Exhibiting was appropriate and requires no specific findings or action in regard to these officers.

Lethal Use of Force

- *Law enforcement officers are authorized to use deadly force to:*
 - *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
 - *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
 - *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

⁴² Officer Urrutia, Page 19, Lines 12- 15.

⁴³ Officer Ramirez, Page 31, Lines 1-19.

- **Officer Ramirez** - .40 caliber, seven rounds, in a southwesterly direction from an approximate distance of 29 feet.

According to Officer Ramirez, Rivera raised the handgun in his direction. Believing Rivera was going to shoot him and his partner, he fired seven rounds from his service pistol at Rivera to stop the threat.

Officer Ramirez recalled, "...he's [Rivera] probably 20 feet from me and he has a gun already in his hand...Then, as I jump out of the vehicle...I see him raising...his left hand higher, now, like, more than before. So, at that moment, I believed that he was gonna shoot me or my partner. So, I was in fear for my life...at which point, I fired approximately, six to seven rounds at him. At that moment...after I fired six or seven rounds at him, he went down."⁴⁴

- **Officer Urrutia** - .45 caliber, four rounds, in a southwesterly direction from an approximate distance of 30 feet.

According to Officer Urrutia, he observed Rivera holding a handgun in his right hand. Rivera then started to walk towards them, while aiming the handgun at him and his partner. Fearing that Rivera was going to kill him, in defense of his life, he fired four rounds from his service pistol at Rivera to stop the threat.

Officer Urrutia recalled, "As I see the firearm, the guy's still yelling and he's now - - like I said, he's got the gun in his waist and he's aiming it...It looked like he's aiming it at me, at my partner...I tell the suspect, 'Drop the gun. Drop the gun.' The suspect - - I still see that look - - the anger of determination. I felt that this guy - - he is determined. He's going to come, he's going to kill me and my partner...I thought he was going to kill me. Fearing that he was going to kill me, I fired in defense of my life."⁴⁵

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Officers Ramirez and Urrutia, would reasonably believe Rivera's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

Therefore, the Chief found Officers Ramirez and Urrutia's Use of Lethal Force to be objectively reasonable and In Policy, No Further Action.

⁴⁴ Officer Ramirez, Page 12, Lines 2-25, and Page 13, Lines 1-16.

⁴⁵ Officer Urrutia, Page 10, Lines 2-12.

Audio/Video Recordings

- **Digital In-Car Video System (DICVS) / Body Worn Video (BWV)**

Harbor Area police vehicles were equipped with DICVS at the time of the incident; however, none of the videos captured the OIS. Officers Martinez and Sternin's DICVS captured Officers Ramirez and Urrutia redeploying to cover after the OIS and the arrest team approaching Rivera. Officers Ramirez and Urrutia did not activate their DICVS.

Harbor Patrol Division officers were equipped with BWV. Officers Ramirez and Urrutia's BWV was activated at the time of the incident and captured their actions before, during and after their OIS. Their BWV cameras were intermittently obscured by their outstretched arms and vehicle door frames and therefore, only captured limited footage of Rivera's actions and body position at the time of the OIS.

The footage that was captured of Rivera was not clear enough to determine Rivera's movements at the time of the OIS. The officers' commands and some statements from Rivera were captured on the audio of the BWV. Officers Martinez and Sternin's BWV captured their arrival and events that occurred after the OIS.

- **Outside Video**

A surveillance camera from an apartment building, located at 1149 North Wilmington Boulevard, captured Rivera walking south on the west sidewalk of Wilmington Boulevard holding an object, which appeared to be a handgun, in his right hand.

Chief's Direction

- Although, it was determined that Sergeant Talmage was not substantially involved in this incident and did not receive formal findings, the UOFRB recommended, and the Chief concurred, that Sergeant Talmage would benefit from attending the Tactical Debrief to discuss lessons learned and enhance future tactical performance during similar incidents. Therefore, the Chief directed Sergeant Talmage to attend the Tactical Debrief.

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INSPECTOR GENERAL REVIEW

Inspector General Analysis

Investigation Quality

- No significant issues of concern were identified in relation to investigation quality.

Training Issues

- No significant issues of concern were identified in relation to training.

Equipment Issues

- No significant issues of concern were identified in relation to equipment.

Additional Issues

- **Requesting Medical Treatment**

All personnel are reminded that Department policy requires treatment to be provided to individuals (as soon as practicable) after a reportable Use of Force anytime the individual is, or becomes ill or injured, or complains of illness or injury or when specifically required to do so based on the force used. In addition, Department employees shall always request a Rescue Ambulance (RA), whenever an individual requests one, or when it is apparent that they are in need of such assistance and are unable to request (LAPD Office of Operations Notice, September 22, 2017).

The Department emphasizes the sanctity of human life in several ways. As part of its "functional objectives," the Department recognizes that "reverence for human life is the primary consideration in developing tactics and strategies in pursuit of our motto: 'To Protect and to Serve'" (LAPD Manual, 1/130.25). Its use of force policy further states that the "guiding value when using force shall be reverence for human life" (LAPD Manual, 1/556.10). This principle has guided many of the Department's policies, including those relating to de-escalation and other measures to avoid the use of force.

After the police vehicle rolled on top of the suspect, Officers Ramirez, Urrutia, Martinez, and Sternin made the decision to hold their positions until a supervisor arrived to develop a plan for approaching the suspect.

Upon his arrival, Sergeant Talmage stated he saw the following, "When I looked, based on what I saw, I could tell the suspect was seriously injured, and appeared to me that he was deceased because it looked like he was trapped. He was on his back. He was trapped under the car, and he wasn't moving at all. So, as I recall, I

re-holstered my pistol and walked over to the officers to try to get an assessment of what was happening.”⁴⁶

Sergeant Talmage made the decision to wait for the ambulance to arrive before they approached the suspect. Sergeant Talmage stated, *“I know that when people are injured, and perhaps there's weight on them, moving them can exasperate the injury, like cause him to start bleeding out, and we had no means of - - of offering him aid. So, if he wasn't dead, us moving him could have killed him with no means of stopping any bleeding or preventing any further injury happening, so I wanted to wait for the ambulance to get there.”⁴⁷*

The OIG noted that waiting for the RA to arrive did not afford the officers any additional measure of safety, or tactical advantage over approaching the suspect as soon as the arrest team was formed. Although they discovered the suspect deceased when they approached him, they did not know if the suspect was deceased at the time of the OIS, or if he was in need of medical care during the 14-to-15-minute time period before LAFD personnel determined he was deceased.

Although officers are currently required to immediately request medical treatment following an incident where a person has been injured by police actions, there is currently no mandate that officers in the field render first aid to the subject prior to the arrival of medical personnel. The OIG noted that the Department is currently reviewing policies related to this issue, pursuant to a recommendation previously made by the OIG.⁴⁸

Detention

- The OIG concurs with the Chief's analysis.

Officers Urrutia and Ramirez were responding to a 415 man with a gun call when they observed the suspect, who matched the physical description provided, walking in the immediate area of the call. Because of these facts, the officers had reasonable suspicion that criminal activity had taken place or was about to take place, and they attempted to detain the suspect to determine if he was connected to that activity.

Tactical De-escalation

- The OIG concurs with the Chief's analysis.

⁴⁶ Sergeant Talmage's transcribed statement, Page 7, Lines 8-14.

⁴⁷ Sergeant Talmage's transcribed statement, Page 19, Lines 5-13.

⁴⁸ “Los Angeles Police Commission Review of National Best Practices”, Office Of The Inspector General, May 2, 2017, Page 48, and “Guiding Principles on Use of Force”, Police Executive Research Forum, March 2016, Principle 7.

As the officers made initial contact with the suspect, he immediately turned towards the officers and pointed his gun in their direction. Because the officers faced an imminent threat of serious bodily injury or death, they had limited opportunity to attempt to tactically de-escalate the situation; however, both officers yelled commands at the suspect to drop his gun. The suspect failed to comply with their commands, resulting in the use of lethal force.

Inspector General Recommendations

Tactics

- The OIG concurs with the Chief's findings.
- **Emergency Vehicle Operations and Tactical Vehicle Deployment**

As noted in the related approved Department tactical training listed below, tactical vehicle deployment and positioning of the police vehicle when conducting a pedestrian stop is critical in order to provide the officers a tactical advantage should the incident escalate.

When stopping one or more suspect(s) using the police vehicle; position the patrol vehicle to maximize officer safety for both officers (Los Angeles Police Department Regular Basic Course, Tactics Lesson Plan, Pedestrian Stops, Page 7-8, February 2003).

Position the police vehicle at a safe and effective distance to allow officers time to exit the vehicle and gain a position of advantage (LAPD, Office of Operations Notice, March 18, 2015).

Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).

Because the officers were in close proximity to the suspect when they first observed him (as noted in OIG Note No.3), Officer Ramirez was faced with a rapidly unfolding tactical situation wherein his initial focus was on the apparently armed suspect. Because of the perceived threat, he maneuvered his police vehicle into a position he believed would afford the maximum amount of cover for both him and his partner. Officer Ramirez stated, "As I see him, we go by - - as I see him, I start making like a - - kind of like a right-hand turn, like a - - a felony stop, but basically I positioned the vehicle diagonal to his location. I do that because this way I could have more cover. Because if I just - - just to park right there in the number one lane, that wouldn't be a lot of cover for my partner."⁴⁹ This maneuver put them less than two car-lengths

⁴⁹ Officer Ramirez's transcribed statement, Page 11, Lines 2-10.

from the suspect and placed Officer Ramirez in a position requiring him to quickly exit the car, limiting the time available to him to ensure that the car was securely placed in park.

As to the issue of Officer Ramirez not placing car in park, the following approved Department training references are relevant:

Peace officers are often called to respond to an emergency as quickly as possible knowing that the outcome of the emergency may rest in the balance. It is the obligation of all officers to respond to these calls in a responsible manner, balancing the risk of their driving behaviors against the risk to the public posed by the call. Peace officers operating emergency vehicles are accountable under Federal and State laws as well as agency policies. Failure to operate within the law and policy can result in criminal prosecution, civil liability and agency discipline (POST Learning Domain 19, Chapter 1, Defensive Driving).

In all situations, peace officers must always use good judgment when operating a patrol vehicle especially when responding to a crime in progress. (POST Learning Domain 23, Chapter 2, Basic Tactical Considerations).

Section 21055 does not relieve the driver of a vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor protect him from the consequences of an arbitrary exercise of the privileges granted in that section (California Vehicle Code Section 21056).

Based upon the totality of the circumstances, the OIG identified Officer Ramirez's operation of the police vehicle as an area for improvement. However, the OIG also considered that Officer Ramirez's actions were attributable to the exigency of the situation he was facing at the time he made the error of not placing the vehicle in park, i.e. his reasonable belief that a suspect was pointing a firearm at him. Moreover, upon realizing his error immediately after the OIS, Officer Ramirez attempted to correct it (albeit unsuccessfully). Accordingly, Officer Ramirez's actions were not a substantial and unjustified deviation from the above-noted training. Nevertheless, in an effort to enhance his future performance, the OIG recommends that Officer Ramirez receive additional emergency vehicle operation training.

Drawing/Exhibiting

- The OIG concurs with the Chief's findings.

Lethal Use of Force

- The OIG concurs with the Chief's findings.

As previously stated, only 7 to 9 seconds elapsed between the time Officer Ramirez pointed out the suspect to Officer Urrutia and the time the first shot was fired. BWV

evidence of the OIS was obtained from both of the involved officers, but due to the officers' movements, the low lighting conditions, and the obstructed views caused by the officers' limbs and the police car, the available BWV evidence recovered in this case did not clearly depict the events of the OIS. The BWV does, however, provide an understanding of the lighting conditions and the distances in question at the time of the OIS.

FID conducted a re-enactment of the officers' and suspect's positions during the OIS, in the original location and with the same environmental characteristics as were present at the OIS. An identical toy pistol (Ja-ru Splash Cyber Series X-27 Water Pistol) was used for the re-enactment. Photos of that re-enactment are attached to this report. The size of the toy pistol that the suspect was holding, as well as its position in the suspect's hand and the suspect's position as he pointed it toward the officers, supports the reasonableness of the officers' inability to identify the pistol as merely a toy as well as their belief that the suspect was pointing a real firearm at them.

A handwritten signature in black ink, appearing to read 'M.P.S.', with a long horizontal line extending to the right.

MARK P. SMITH
Inspector General











